



# Graduation

## Frequently Asked Questions

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**Q - Can the IEP override the algebra requirement for graduation if the committee decides it is appropriate? In the new Standard Graduation Requirements, Algebra I is required for all students.**

A – The district is obligated to define course requirements and what courses will be considered to meet the course requirements on the Pathways to Graduation. Based on the courses allowed it is the IEP teams decision how each individual student will be meeting those course requirements. On the standard pathway it is the district’s discretion to allow modified coursework for special education students, however modified courses are not allowed for the Advanced and Distinguished coursework.

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**Q - If an IEP team modifies the Algebra I requirements, does it mean that the student does/does not get a full diploma?**

A - If the student meets the district’s course requirements for the pathway they are on they would receive a diploma.

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**Q – Does a student on the Standard Pathway have to complete the required minimum 22 credits total composed of the required units in each of the course areas in order to receive a diploma?**

A – Although the district has the right to allow modified coursework on the Standard Pathway, the district is still obligated to meet the specific state/district unit requirements in all course areas to issue a diploma.

According to the Office for Civil Rights *Letter to Runkel*, all publicly enrolled students with a disability are eligible to receive a regular high school diploma. But keep in mind that eligibility means no more for disabled students than it does for non-disabled students. Eligibility is not the same as guaranteed receipt of a diploma.

There is no guaranteed right for every student with a disability to receive a diploma of graduation from high school. *Letter to Anonymous*, 22 IDELR 456 (OSEP 1994).

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**Q – Can a resource room teacher teach modified content to students with disabilities?**

A- Courses the district has outlined to meet graduation requirements can be taught by any teacher that is considered highly qualified in that course area. For example: if a special



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education teacher is teaching basic math and is highly qualified in math and basic math is a course the district has outlined to meet the coursework in the math area then it meets the requirements.

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**Q – If a student can't pass the coursework, can they receive a diploma?**

**A –** South Dakota only has one diploma and that is reserved for students who have met the Pathways to Graduation.

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**Q – Can the district issue an alternate diploma?**

**A –** The district can create an alternative certificate of attainment or certificate of attendance to present to students who have not met the graduation requirements. This can be presented to students who participate in the graduation ceremony with their class, but does not end the district's obligation to continue to provide services to the student through the end of the fiscal year in which the student turns 21. The certificate could also be awarded to students upon aging out of the program if they had not met the graduation requirements.

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**Q – Can a student with disabilities that take modified courses receive “regular” credit for the classes they take?**

**A -** It is up to the IEP team and school district to determine whether or not a student will be receiving "regular" credit for the classes they take. This needs to be discussed very thoroughly at the IEP meeting so parents and the school district know what the plan is for the student. The special education director needs to be working closely with other administration so they know what will be accepted for a diploma, and what won't be accepted.

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**Q - We deal with several kids who are very smart, have very good IQ's, but have a severe learning disability in math, can they receive modified coursework on the advanced pathway?**

**A -** An accommodation is a **change** in the course/standards/diploma/test, and/or other attribute which is **necessary** to provide **access** for a student with a disability to participate in a course/standard/etc. and demonstrate what he or she knows and can do, and **which does not fundamentally alter or lower the standard or expectations of the course/standard/etc. (it levels the playing field)**

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Accommodations are allowed in meeting the Advanced or Distinguished course requirements.

A **modification** is a **change** in the course/standards/diploma/test, and/or other attribute which is **necessary** to provide **access** for a student with a disability to participate in a course/standard/etc. and demonstrate what he or she knows and can do, **but which does fundamentally alter or lower the standard or expectations of the course/standard/etc. (instead of just leveling the playing field, it changes the game)**

**A modified course can meet the unit requirements on the standard path if a district has outlined this modified course as meeting the requirements. Modified coursework cannot meet unit requirements for the Advanced and Distinguished Pathways**

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**Q – If a student completes coursework as outlined on the standard path will that student be able to attend college?**

**A-** Completing coursework on the standard path does not prevent a student from attending a post-secondary institution. However, the standard path may not prepare a student to successfully complete a post-secondary program. Every post-secondary institution in and out of state have specific entrance requirements that students must meet and it is at the discretion of the institution to accept applicants. If a student is planning on attending a post-secondary institution and had modified coursework or testing in high school, those same modifications will probably not be available at the post-secondary level. Students may still be able to receive some accommodations, but they must be able to advocate for themselves and contact the disabilities coordinator.

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**Q – What is the difference between report cards and transcripts?**

**A-** It is our understanding that report cards are provided by local educational agencies (LEAs) to parents to indicate their child's progress or level of achievement in specific classes, course content, or curriculum. Our answers assume these report cards are made available to parents, not to postsecondary institutions, potential employers, and others outside the LEA.

In contrast, it is our understanding that a student's transcript generally is intended to inform postsecondary institutions or prospective employers of a student's academic credentials and achievements. Accordingly, there is an expectation that a student's transcript may be shared with persons other than the student and the student's parents, provided the district complies with the provisions of FERPA and IDEA .(you may want to add this here also) However, please note that disclosures of student information are subject to the consent requirements contained in the Family Educational Rights and Privacy Act (FERPA) and the IDEA that apply to public agencies in disclosing personally identifiable information in education records. See 34 C.F.R. §§ 99.30-99.31 of



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the FERPA regulations and 34 C.F.R. § 300.571 of the IDEA regulations.' With regard to disclosure to third parties, the same confidentiality requirements apply both to a student report card and a student transcript, since both are "education records" within the meaning of FERPA and IDEA.

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### **Q – How does a district identify modified course on the report card?**

**A** – It is important that the course title as recorded on the report card/transcript not categorize the student as being in a special education course. For example:

**NOT ACCEPTABLE** – Resource room math, Special Education language arts.

**ACCEPTABLE** – Practical math applications, English Essentials, Basic Science 1.

A district can use a special notation (e.g. an “\*”) to denote a modified course however, that notation must appear on all district report cards/transcripts. This notation can be used to identify any modified course offerings including special education, advanced courses, gifted and talented, etc.

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### **Q – What is the policy the district must adhere to in order to receive approval for a modified course.**

**A** – The SDDOE does not approve coursework toward high school graduation. The district would follow the same procedures used to establish any coursework and/or course definitions toward the established district graduation requirements.

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### **Q – Can a standards-based report card, or any report card issued for a child with a disability by a local educational agency, identify special education or other related services or resources being provided for the student? For example, can the report card provide a box to be checked if the student is receiving speech/language services, is in a resource program or special day class, or makes reference to an IEP?**

**A** - In general, Section 504 of the Rehabilitation Act of 1973 (Section 504), Title II of the Americans With Disabilities Act of 1990 (Title II) prohibit recipients and public entities from treating persons differently on the basis of disability in the provision of aid, benefits, or services. However, recipients and public entities may provide a different aid, benefit, or service to persons with disabilities where necessary to provide an aid, benefit, or service that is as effective as that provided to others. 34 C.F.R. § 104.4(b)(1)(i)-(iv) and 28 C.F.R. § 35.130(b)(1)(i)-(iv).

Given that report cards are provided to parents to indicate their child's progress or level of achievement in specific classes, course content, or curriculum, it would be permissible



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under Section 504 and Title II for a report card to indicate that a student is receiving special education or related services, to the extent that this information is given as a way of informing parents about their child's progress or level of achievement in specific classes, course content, or curriculum, consistent with the underlying purpose of a report card.

However, in light of the purpose of report cards as referenced above, the mere designation that a student has an IEP or is receiving a related service, without any meaningful explanation of the student's progress, such as a grade or other evaluative standard established by an LEA and/or SEA, would be inconsistent with Part B of the Individuals with Disabilities Education Act (IDEA) periodic reporting requirements, as well as with Section 504 and Title II. Under Section 504 and Title II, the LEA must provide report cards to students with disabilities that are as meaningful as the report cards provided to students without disabilities. Without more meaningful information, a report card that indicates only special education status provides the student with a disability with a benefit or service that is different from and not as effective as the benefit or service that is provided through the report card to students without disabilities.

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### **Q – Can a report card assign grades for a child with a disability based on the student's grade level standards?**

**A** - Yes. Assigning grades (i.e., achievement or "letter" grades) for a child with a disability based on the student's grade level (i.e., year-in-school) standards would not be inconsistent with Section 504 or Title II. Generally, Section 504 and Title II would require that if an LEA assigns grades to nondisabled students participating in regular education classes using grade level standards to reflect progress in the general education curriculum, then the LEA would also assign grades to students with disabilities participating in regular education classes using grade level standards to reflect progress in the general education curriculum. To the extent that a student with a disability is not participating in such classes and is being taught different course content or taught using a modified or alternate education curriculum for a portion of the day, it would be up to the SEA and the LEA to establish standards to reflect progress or level of achievement for this different course content or modified or alternate education curriculum. The grades on a student with disability's report card for classes with different course content and classes taught using a modified or alternate education curriculum would be based on these standards.

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### **Q – May a local educational agency distinguish between special education programs and services and general curriculum classes on the report card of a student who has an IEP?**

**A** - In general, under Section 504 and Title II, an LEA may distinguish between special education programs and services and general education curriculum classes on the report card of a student who has an IEP if the course content or curriculum in the special

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education programs or services is different from the course content or curriculum contained in the general education curriculum classes. LEAs frequently distinguish between general education curriculum classes and other types of programs and classes, such as advanced placement, honors, or remedial classes. Making similar distinctions on report cards would be consistent with the general requirements of Section 504 and Title II that individuals with disabilities not be treated differently than individuals without disabilities.

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**Q – May a local educational agency use asterisks or other symbols or coding on a report card of a child with a disability to indicate that the student has had a modified curriculum in general education?**

**A –** As noted above, an LEA may, under certain circumstances, distinguish on the report card between students in general education curriculum classes and those taught using a modified or alternate curriculum. The use of asterisks, symbols, or other coding on a report card to designate the use of a modified education curriculum generally would be allowable under those circumstances.

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**Q – Can a district substitute career and technical courses for math or science?**

**A -** One credit for certain career and technical education courses may be used to partially satisfy the required course credits in English, mathematics, social science, and science for students on the Standard Pathway.

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**Q- Can a student's transcript indicate that the student has been enrolled in a special education program, has received special education and/or related services, or has a disability?**

**A -** No. A student's transcript generally is intended to inform postsecondary institutions or prospective employers of a student's academic credentials and achievements. Information that a student has received special education or related services or has a disability does not constitute information about the student's academic achievements. Under Section 504 and Title II, recipients and public entities may not provide different or separate aid, benefits, or services to individuals with disabilities, or to any class of individuals with disabilities, unless such action is necessary to provide those individuals with aid, benefits, or services that are as effective as those provided to others. Notations that are used exclusively to identify programs for students with disabilities unnecessarily provide these students with different educational benefits or services. In addition, identifying programs as being only for students with disabilities singles out students with disabilities with respect to disclosure of disability and constitutes different treatment on the basis of disability. Therefore, it would be a violation of Section 504 and Title II for a



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student's transcript to indicate that a student has received special education or a related service or that the student has a disability.

While a transcript may not disclose that a student has received special education or a related service or has a disability, a transcript may indicate that a student took classes with a modified or alternate education curriculum. This is consistent with the transcript's purpose of informing postsecondary institutions and prospective employers of a student's academic achievements. Transcript notations concerning enrollment in different classes, course content, or curriculum by students with disabilities would be consistent with any similar transcript designation for classes, such as advanced placement, honors, or remedial instruction, in which students without disabilities are enrolled, and thus would not violate Section 504 or Title II. These notations about modified or alternate education curriculum are permissible because they do not disclose that a student has a disability, are not used exclusively to identify programs for students with disabilities, and are consistent with the purpose of a student transcript.

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**Q- Can special notations, such as asterisks or other symbols, be included on the transcript of a child with a disability who receives accommodations in general education classrooms or who has had a modified curriculum in general education?**

**A -** Under Section 504 and Title II, a student's transcript may, under certain circumstances, indicate that the student was taught using a modified curriculum in general education curriculum classes. However, in general, it would be a violation of Section 504 and Title II for a student's transcript to indicate that the student has received accommodations in a general education classroom since accommodations are generally understood to include aids or adjustments that enable the student with a disability to learn and demonstrate what the student knows and do not affect course content or curriculum.

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**Q- Is the confidentiality standard different for a student's report card and a student's transcript?**

**A -** Section 504 and Title II do not contain specific confidentiality requirements in this context, but do prohibit different treatment on the basis of disability, including with respect to the inclusion on transcripts of information about disability. Because report cards and transcripts have different purposes and bestow different benefits, the analysis under Section 504 and Title II for each must be individually tailored. However, please note that disclosures of student information are subject to the consent requirements contained in the Family Educational Rights and Privacy Act (FERPA) and the IDEA that apply to public agencies in disclosing personally identifiable information in education records. See 34 C.F.R. §§ 99.30-99.31 of the FERPA regulations and 34 C.F.R. § 300.571 of the IDEA regulations.' With regard to disclosure to third parties, the same



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confidentiality requirements apply both to a student report card and a student transcript, since both are "education records" within the meaning of FERPA and IDEA.

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## **Q- What role does the IEP team play in making decisions about graduation?**

**A** - 24:05:27:12 discusses graduation requirements, however it does not address the IEP team's role in decision making concerning graduation. Decisions about graduation are not specifically included among the topics that must be discussed by IEP teams and documented in the written IEP according to IDEA 2004 §300.324. However, IEP teams may play a role in reviewing decisions about when to graduate the student as a matter of best practice, and in some instances, state law. IDEA establishes a prior notice requirement because graduation is a change of placement.

IEP teams decide the special education and services a school district must provide to a student with a disability in order to provide him with meaningful benefit. Whether that IEP leads to the student earning a regular high school diploma depends on the student's individual circumstances and generally applicable state law explained 18 IDELR 656 (N.D. Miss. 1992).

The anticipated date of graduation and diploma to be awarded is the main objective for the IEP team's identification of required transition services. In addition, to the extent a student's disability impacts his ability to earn a regular high school diploma, meeting graduation requirements may become an IEP goal.

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## **Q – If a student with disabilities has met all local district course requirements for graduation, is the district obligated to issue a diploma?**

**A** – Generally, if a student meets local graduation requirements the responsible school district has an obligation to graduate the student unless there is some other mutually agreeable arrangement between the district and the parent (or student if 18 years of age or older) or unless the student disputes his or her eligibility to graduate.

**SDCL 13-28-5.** Public school privileges free to children of legal age. States that the privileges of the public schools of any district shall be free to all persons with school residence within the district until they complete the secondary school program or until they reach the age of twenty-one.

If a student with a disability meets all state and school district requirements for award of a regular high school diploma, then he cannot be denied a diploma purely and simply because he has a disability. That is discrimination on the basis of disability, clearly prohibited under Section 504.

The IDEA 2004, however, does not compel a school district to graduate a student with a disability who has met the requirements for award of a regular high school diploma, assuming the parents and school district agree to continue the student's secondary





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education. With the renewed emphasis that the federal Office of Special Education Programs has made for transition, districts should also consider progress made on IEP goals and objectives. Normally, **graduation** with a general high school diploma terminates a district's responsibility to provide special education services. But when a district graduates a special education student based solely on general education requirements without taking into account the completion of IEP goals and objectives, the student might be able to rescind that **graduation**.

The main thing districts need to remember is to establish diploma and graduation standards before they may be needed, that are clear and concise, and that do not disregard students with disabilities. Make sure you implement your standards consistently with all students.

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**Q – Does a school district violate the IDEA 2004 if it awards a regular high school diploma to a student with a disability who has not met her IEP goals?**

**A –** No. The IDEA 2004 doesn't make achievement of a disabled student's IEP goals a prerequisite for award of a regular high school diploma. *Letter to Richards*, 17 EHLR 288, 289 (OSEP 1990) sites that the statute does not establish standards for graduation as a general matter. There are numerous cases dealing with this question.

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